

SENATE BILL 1214

By Cooper

AN ACT to authorize certain *de novo* branch offices of banks and savings institutions in Tennessee under certain conditions and to amend Tennessee Code Annotated, Title 45, Chapter 2, and Title 45, Chapter 3.

WHEREAS, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (P.L. 103-328, 108 stat. 2338) established a national framework for interstate banking and branching;

WHEREAS, the Riegle-Neal Act specifically preserves certain state rights to authorize the establishment and operation of a *de novo* branch under certain conditions;

WHEREAS, a number of states, including North Carolina and Virginia, among others, have established state laws authorizing the establishment of a *de novo* branch on a reciprocal basis;

WHEREAS, the Office of the Comptroller of the Currency has recognized the validity of state reciprocal requirements after the effective date of the Riegle-Neal Act (June 1, 1997) in the decisions of 1) the Office of the Comptroller of the Currency on the application of Patrick Henry National Bank, Bassett, Virginia, to establish a branch in Eden, North Carolina (Corporate Decision #96-04, January 19, 1996, regarding *de novo* branches), 2) the decision of the Office of the Comptroller of the Currency on the application of American National Bank and Trust Company of Danville, Virginia, to

purchase certain of the assets and assume all the liabilities of the Yancyville, North Carolina branch and related CBCT of First South Bank, Burlington, North Carolina (Corporate Decision #96-53, September 24, 1996, regarding acquisition of a branch), and, 3) the decision of the Office of the Comptroller of the Currency on the application by 1<sup>st</sup> National Community Bank, East Liverpool, Ohio, to acquire a branch in New Cumberland, West Virginia (Corporate Decision #97-56, June 26, 1997);

WHEREAS, Tennessee previously adopted a reciprocal provision permitting acquisition of a branch only (Public Chapter 742, Acts of 1998);

WHEREAS, Tennessee wishes to opt into interstate *de novo* branching only on a reciprocal basis;

WHEREAS, no court challenge has been filed contesting the validity of the reciprocal provisions of those states enacting reciprocal provisions or to the decisions of the Comptroller of the Currency;

WHEREAS, by allowing the establishment of *de novo* branches on a reciprocal basis, it would enhance the competitive opportunities for Tennessee banks and savings institutions and their customers, particularly with regard to those in close proximity to the states of North Carolina and Virginia; and,

WHEREAS, it is the legislative intent that if a provision permitting the establishment and operation of a *de novo* branch on a reciprocal basis is violative of any provision of the Riegle-Neal Act or any other federal or state law, such enactment would not have been made; now therefore, BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

Section 1. Tennessee Code Annotated, Section 45-2-1402, is amended by adding the following as an appropriately numbered item and by renumbering subsequent items accordingly:

"*De novo* branch" means a branch of a bank which (i) is originally established by the bank as a branch; and (ii) does not become a branch of such bank as a result of 1) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or, 2) the conversion, merger, or consolidation of any such institution or branch.

Section 2. Tennessee Code Annotated, Section 45-2-1412, is amended:

- 1) by deleting from subsection (a) the words "acquisition of a branch" and by substituting instead the words "acquisition of a branch or establishment of a *de novo* branch".
- 2) by deleting from subsection (b) the words "acquisition of a branch" and by substituting instead the words "acquisition of a branch or establishment of a *de novo* branch"; and,
- 3) by further amending subsection (b) by deleting the words "acquisition of branches" and by substituting the words "acquisition of a branch or establishment of a *de- novo* branch".

Section 3. Tennessee Code Annotated, Section 45-3-301, is amended by designating the existing language as subsection (a) and by adding as a new subsection (b)

the following:

(b) No branch of an out-of-state savings and loan association or savings bank ("savings institution") may be established through the establishment of a *de novo* branch, unless the laws of the home state of the out-of-state savings institution permit Tennessee savings institutions to establish and maintain branches in that state through the establishment of *de novo* branches under substantially the same terms and conditions as set forth in this title.

(c) For purposes of this section, "*De novo* branch" means a branch of a savings institution which (i) is originally established by the savings institution as a branch; and (ii) does not become a branch of such savings institution as a result of 1) the acquisition by the savings institution of an insured depository institution or a branch of an insured depository institution; or, 2) the conversion, merger, or consolidation of any such institution or branch.

Section 4. Reverse Severability. If any provision of this act or the application thereof to any person or circumstance is held to be invalid for any reason by a final nonappealable order of any Tennessee or federal court of competent jurisdiction, then

such court shall declare this entire act to be null and void in its entirety and shall give no further force or effect to it; provided, however, that any transaction that has been finally consummated in good faith pursuant to this act prior to a determination of invalidity, and which is not the subject of dispute or litigation, shall be unaffected by such determination.

Section 5. This act shall take effect on July 1, 2001, the public welfare requiring it.